

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Auto and Work Comp Rehab
Petitioner

File No. 21-1478

v

Auto-Owners Insurance Company
Respondent

Issued and entered
this 19th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On September 21, 2021, Auto and Work Comp Rehab (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto-Owners Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on July 6, 12, 16, 20, 23, 26, and 27, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 23, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 23, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 27, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 4, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for massage therapy treatments rendered on January 27, 2021; March 8, 2021; May 17 and 19, 2021; June 16, 18, 23, and 30, 2021; and July 9, 2021, under the Current Procedural Terminology (CPT) code 97124, which is described as massage therapy. In its denials, the Respondent referenced Official Disability Guidelines (ODG) in support.

With its appeal request, the Petitioner submitted documentation indicating that the injured person received massage therapy treatment for management of back and shoulder pain. The Petitioner noted that the injured person was involved in a motor vehicle accident in September of 1991. The Petitioner stated in its appeal request that the Respondent advised the Petitioner following treatment that the injured person's benefits were verified and that the claim was "open and billable."

The Petitioner further stated in its appeal request:

[The injured person] has been treated with massage therapy 2-3 times a week for the last several months. The massage sessions were to assist with pain management and help maintain range of motion, as the [injured person] has ongoing bilateral shoulder pain. The massage sessions improved quality of life by relieving tension in shoulders and upper thoracic and helped calm his nervous system. [The injured person] would report he felt better after each session, but it never lasted more than the treatment day. Without massage therapy, pain will get worse than it did when he took a break from massage during the course of therapy.

In its reply, the Respondent reaffirmed its position and explained that utilization review physicians specializing in physical medicine and rehabilitation and an occupational medicine physician, respectively, reviewed the treatments at issue. Based on the physician's opinions, the Respondent stated that the ODG guidelines do not support the medical necessity of the massage therapy treatments in excess of two months as "improvement was not documented" and further stated that the injured person "should be transitioned to a home exercise program."

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a physician board-certified in physical medicine and rehabilitation and fellowship-trained in spine, sports, and musculoskeletal rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on MD Guidelines and ODG by MCG evidence-based treatment guidelines for its recommendation.

The IRO reviewer explained that MD Guidelines recommend massage for select use in individuals with trigger points or myofascial pain “as an adjunct to active treatments consistent primarily of a graded aerobic and strengthening exercise program.” In accordance with the guidelines, the IRO reviewer noted that treatment frequency is 3-5 visits and, if there is ongoing objective improvement, then 8-10 additional treatments are appropriate. The IRO reviewer noted that ODG guidelines indicate “a short course of massage therapy may be recommended.”

The IRO reviewer noted that significant, objective improvement was not supported in the submitted records provided in this case. The IRO reviewer opined:

The submitted documentation indicated this [injured person] was participating in massage therapy 2-3 times a week for several months. The documentation indicated while the sessions did improve quality of life, the benefit never lasted for greater than the treatment day. Therefore, the utilization of the requested services do not appear appropriate and are not medically necessary in this case.

The IRO reviewer recommended that the Director uphold the Respondent’s determination that the massage therapy treatments provided to the injured person on January 27, 2021; March 8, 2021; May 17 and 19, 2021; June 16, 18, 23, and 30, 2021; and July 9, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent’s determinations dated July 6, 12, 16, 20, 23, 26, and 27, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person’s eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford